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UNCLAS SECTION 01 OF 04 HANOI 003252

SIPDIS

STATE FOR DRL/IL AND EAP/BCLTV
STATE PASS USDOL ILAB DUS LEVINE, LI ZHAO, BBUI
STATE ALSO PASS USTR FOR EBRYAN, BCLATANOFF
STATE ALSO PASS USAID FOR ANTOINETTE FERRARA

BANGKOK FOR USAID

E.O. 12958: N/A

TAGS: [ELAB](#) [FAID](#) [ECON](#) [ETRD](#) [VM](#) [LABOR](#)

SUBJECT: THE SECOND U.S.-VIETNAM LABOR DIALOGUE

REF: A) 02 STATE 53127 B) HANOI 2778

¶11. SUMMARY: The U.S. Department of Labor (USDOL) and Vietnamese Ministry of Labor, Invalids, and Social Affairs (MOLISA) held a half-day labor dialogue on November 6 in Hanoi. This discussion, the second since the signing of a Memorandum of Understanding (MOU) in November 2000, covered Vietnam's wide-ranging efforts to improve labor conditions. The two sides also discussed USDOL's technical assistance program. END SUMMARY.

¶12. Vietnam's Vice Minister of Labor, Invalids, and Social Affairs Nguyen Luong Trao began the second U.S.-Vietnam labor dialogue (see ref A on the first labor dialogue) by welcoming the U.S. delegation headed by USDOL Deputy Under Secretary (DUS) Arnold Levine and expressing his condolences

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on the death of the DUS Thomas Moorehead. The two sides then agreed on the proposed agenda of three principal topics-labor standards, textile sector, and technical assistance.

LABOR STANDARDS

¶13. ILO: VM Trao commenced the discussion of Vietnam's implementation of labor standards by reviewing Vietnam's cooperation with the International Labor Organization (ILO). A member since 1992, Vietnam has worked closely and effectively with the ILO on a diverse set of issues for over a decade. The ILO was instrumental in the drafting of Vietnam's first Labor Code adopted in 1994. After adopting this Code, which VM Trao said the ILO considers progressive and in line with international standards, Vietnam began adopting ILO conventions. Currently, Vietnam has adopted 16 conventions, including 4 core labor conventions (Conventions 100 and 111 on discrimination and Conventions 138 and 182 on child labor). Vietnam is also presently examining Conventions 29 and 105 on forced labor.

¶14. In addition to this policy discussion and some technical assistance (see ref B), Vietnam and the ILO are working with the social partners on a "decent work agenda". ILO is using development of this agenda with the Vietnam General Confederation of Labor (VGCL) as an opportunity to use the social dialogue "tool." In order to ensure the effectiveness of social dialogue, the ILO and social partners are developing a handbook, increasing the capacity of partners so that they can become more involved and tripartite cooperation will be improved.

¶15. NON-DISCRIMINATION: According to VM Trao, Vietnamese law ensures equal employment opportunities for all members of Vietnam's society. In addition, the GVN supports those who are disadvantaged, such as women, the poor, and the disabled. The GVN gives direct support to needy communes in order to build public utilities, markets, schools, clinics, and electricity and ensure minimum conditions for socio-economic development. Finally, there is a national program on employment and poverty reduction in order to provide guidance for poor and needy households and help ensure equality.

¶16. FORCED LABOR: Vietnamese law prohibits forced labor, and the GVN is currently studying Conventions 29 and 105 for adoption.

¶17. CHILD LABOR: Prohibited by Vietnamese law, VM Trao asserted that no child labor exists in the formal sector. In the informal sector and rural areas, children do work, especially assisting with the harvest. Vietnam has undertaken programs to eliminate this persistent child labor, particularly focusing on needy families and orphans. VM Trao explained that they are tackling this issue by working to reduce poverty, improve education, and raise awareness.

¶18. FREEDOM OF ASSOCIATION & COLLECTIVE BARGAINING: VM Trao

used the 2002 amendments to Vietnam's Labor Code (see ref B) to highlight improvements in this area, including strengthened rights to self-determination in collective bargaining. The amendments limit the GVN's intervention in labor relations, with its role evolving to one of facilitator and inspector. Regarding collective labor agreements, provincial labor authorities now just register them, limiting interference to cases where the agreement is unlawful. According to the Director of MOLISA's Legal Department, enterprises view this change very positively. He asserted that collective bargaining generally occurs in foreign-invested enterprises.

¶19. Vietnam is also promoting public administration reform in order to increase transparency and openness, thus creating better conditions for employment. Improvements have also been made by allowing more freedom in recruitment decisions. (Note. This statement probably refers to the amendment to the Labor Code that removes the requirement for foreign-invested enterprises to recruit their employees through a labor introduction agency. Foreign government and non-governmental organizations must still use these entities. End note.)

¶10. VM Trao further explained labor union operations in Vietnam by first pointing out that labor is free to join trade unions, but there is no requirement to do so. Within six months of operations, enterprises must facilitate employees' joining into a trade union. The union's leadership is then elected, with the grassroots level electing its executive board, which elects the provincial executive board and so on up to the national level board. According to VM Trao, no one has ever raised the idea of establishing a new labor body, because an executive board will not be reelected if its actions do not reflect the interests of its membership.

¶11. Regarding tripartite cooperation in policy and law making, Vice Minister Trao elaborated on the GVN's efforts to implement eight new amendments. Under the new draft decree guiding these provisions, any labor-related policy must be considered by a drafting committee that involves representatives of the government, employer organizations (Vietnam Chamber of Commerce and Industry (VCCI) and Vietnam Cooperative Alliance (VCA)), and employee organization (VGCL). Throughout the process, they must gather inputs from their respective constituencies and advise the GVN. In addition to these legislative efforts, USDOL technical assistance projects are assisting tripartism through their structures that bring together the government, employers, and employees to work on specific issues.

¶12. VOCATIONAL TRAINING: With up to 70 percent of Vietnam's labor in rural areas and 60 percent involved in agriculture, Vietnam's labor force is in transition. To succeed in its goals of modernizing the economy and industrializing agriculture, Vietnam must better train and equip its vast rural work force through vocational training for all skill levels. The GVN is attempting to assist with this process by providing instructions to help training centers focus on and identify developing sectors. These schools will conduct surveys among employers to determine the types of labor needed. Although they will also consider the workers' desires, they will focus fundamentally on employers' interests in order to ensure that training occurs in those sectors with potential employment. In addition to training centers, trade fairs are bringing together large numbers of workers and employers, with up to 10,000 attending.

TEXTILE SECTOR

¶13. WORKPLACE CONDITIONS: VM Trao commenced discussion of textile working conditions by highlighting the growth in enterprise awareness on this subject. Employers increasingly understand their responsibilities, especially given Chapter 9 of the amended Labor Code which specifies their requirement to provide good work safety. Businesses are beginning to realize that improved working conditions are good for both employers and employees due to the increases in quality, efficiency, brand-name recognition, competitiveness, markets, and ability to attract better skilled labor. Therefore, the real situation in workplaces is improving, with new, better factories being built and new technologies introduced. A study of 12 companies found that investment in work safety increased fourteen fold between 1998 and 2002. According to VM Trao, existing enterprises are focusing this money on new restrooms, health clinics, and cafeterias. In addition, they are working on improving safety, hygiene, and sanitation, including air conditioning, waste water treatment, and fire prevention. Of the workers surveyed, 94 percent viewed working conditions as significantly improved.

¶14. CORPORATE SOCIAL RESPONSIBILITY: Corporate social responsibility (CSR) is coming to Vietnam in several ways.

VM Trao stated that suppliers are requiring some enterprises to implement Corporate Codes of Conduct. For these voluntary measures between trading partners, the GVN is only providing information. VM Trao explained that these Codes help enterprises strengthen awareness, increasing the attention paid to labor conditions. Because most Code provisions are in line with Vietnamese laws, their enforcement is the same as enforcement of the nation's laws and vice versa (i.e. a Code and the law reinforce each other.). On the other hand, the GVN has found itself explaining over the past few years that certificates, such as SA8000, are not a pre-requisite to having a contract, nor a legal requirement. It has tried to provide correct information on the role of CSR and the importance of improving work conditions.

¶15. INSPECTIONS: Responding to DUS Levine's query regarding inspections, VM Trao described Vietnam's two-tiered system. At the national level, MOLISA has a technical and safety board while there are responsible sections of the provincial labor authorities. VM Trao also stated that the total manpower and quality of these forces must be increased. Records regarding violations are kept at the local labor department, along with recommendations regarding non-conformity.

TECHNICAL ASSISTANCE

¶16. Regarding USDOL's six technical assistance programs (see ref B), VM Trao began by saying that they are now all underway and are achieving good results although their implementation dates varied due to technical reasons. He generally observed that they are making important contributions to the political process, citing the social insurance project's assistance regarding Vietnam's new law under consideration as an example. (Note. VM Trao explained that there is presently no separate law on social insurance; rather, social insurance is addressed within a chapter of the Labor Code, with a focus on compulsory insurance and no provision for voluntary kinds. End note.) These projects are building the capacity of involved agencies and enterprises through courses, study tours, and seminars. In addition, some, such as the ones on employment service centers (ESCs) and employment of persons with disabilities, are helping centers and other stakeholders improve their facilities and equipment.

¶17. DOLEP: The Director of MOLISA's Department on Labor and Employment Policies (DOLEP) highlighted the very positive results from the three programs in which his department is involved (ESC, employment of persons with disabilities, and child labor). Like VM Trao, he pointed out their essential assistance to the policy making process. He also thanked USDOL for the ESC study tour, explaining that it provided important information on the potential role of ESCs, which they were trying to adapt to Vietnam.

¶18. LEGAL DEPARTMENT: Responsible for the industrial relations project, the Director of MOLISA's Legal Department described the activities undertaken in the six months since the launch, including seminars on collective bargaining and dispute settlement and a study tour. He praised the project for introducing officials from MOLISA, VCCI, VCA, and VGCL to new approaches to building healthy work relations. In addition, conciliators are being equipped with the necessary skills to settle disputes. The project aims to improve working relations and complements legal changes undertaken in amendments to the Labor Code.

¶19. SOCIAL INSURANCE DEPARTMENT: The Deputy Director of the Social Insurance Department emphasized the awareness raising benefit of the social insurance project. Before 1995, social insurance only existed for State-Owned Enterprises. Since all workers are now entitled, they need to be informed of their benefits. In addition to this awareness work, the project is assisting on the policy front, as the GVN studies how to expand the social insurance fund. During its upcoming third year, the project will assist with collections, payments, pensions plans, and the law on unemployment insurance.

¶20. DEPARTMENT OF SOCIAL EVILS PREVENTION: The Deputy Director of the Department of Social Evils Prevention called the cooperation between MOLISA, VGCL, VCCI, and the staff of the HIV/AIDS in the workplace project positive. He asserted that the program is strengthening tripartite cooperation in this field. Although just starting, the project is serving as a catalyst in developing legal documents and policies. Whereas previously HIV/AIDS was only viewed as a health issue, it is now also understood as a social issue. Officials and agencies involved also increasingly appreciate the need for workplace-based programs thanks to the project.

¶21. FUTURE COOPERATION: Emphasizing the necessity of ensuring that these programs are sustained, DUS Levine

expressed his hope that they will be embraced even once U.S. funding ends. VM Trao agreed that MOLISA must ensure sustainability, looking beyond implementation of the actual projects. In conclusion, DUS Levine, thanked VM Trao for a complete and candid explanation of developments and invited him to the next dialogue in the U.S. or Vietnam on a mutually agreed upon date.

¶22. This cable was cleared by DUS Levine.
BURGHARDT